IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.12.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1394 of 2007

V.Arunachalam .. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Prohibition and Excise Department
Chennai-9.

2. The Commissioner of Police
Greater Chennai, Egmore
Chennai - 600 008. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein.

For Petitioner : Mr.V.Devendhiran
For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against the detenu - Jai alias Jaikumar, son of the petitioner, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Challenging the above-said detention, the father of the detenu has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records pertaining to the detenu, who is detained under Tamil Nadu Act 14 of 1982 as a

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Goonda at Central Prison, Puzhal, Chennai by the second respondent vide order in Memo No.192/BDFGISSV/2007, dated 4.5.2007 on the file of the second respondent, to quash the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

3. The order of detention dated 4.5.2007 came to be passed based on the ground case in Crime No.271 of 2007 on the file of Anna Nagar Police Station for the offences punishable under Sections 341, 323, 392, 427 and 506(2) IPC, complaint of which was given by one Balasundaram. According to the complainant, on 23.4.2007 at about 1800 Hrs., when he was returning home, the detenu asked the way to go to the Blue Star Bus Stop. While the complainant was explaining the route, the detenu beat him and took away Rs.540/- from his shirt pocket and took out a knife and threatened the complainant to run away. The complainant raised hue and cry and the public nearby came to his rescue. But, the detenu picked up stones and pelted the same against the complainant and others. The detenu also hurled some bottles against the public. The public ran hither and thither for safer places out of fear of danger to their lives and properties. Taking advantage of the panic situation, the detenu escaped from the spot. Based on the complaint given, a case was registered, taken up for investigation, the detenu was arrested and remanded.

4. The second respondent, taking note of the above case as a ground case and finding that there are three adverse cases, viz., Crime Nos.786 of 2002, 104 of 2007 and 220 of 2007 for the offences punishable under Section 397, 457, 380 and 379 IPC, and having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

5. The main contention of Mr.V.Devendhiran, learned counsel for the petitioner is that arrest of the detenu was not intimated to his parents or family members.

6. We heard Mr.N.R.Elango, learned Additional Public Prosecutor and perused the materials available on record.

7. The object and purpose of informing the members of the detenu's household in writing of the passing of the order of detention and taking in custody of the detenu as also the place of detention immediately after the detenu is taken in custody pursuant to the order, is that the family members of the detenu should not be kept in darkness by withholding the information about the passing of the order of detention and the place of detention thereby preventing them from having any access and from rendering any help or assistance to the detenu and similarly the detenu should not be deprived of the privilege of meeting his relations and getting any help or

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assistance, vide Union of India v. Vasanbharathi, [1990] 2 SCC 275.

8. In the case on hand, no material was produced before us to justify that the family members of the detenu have been informed about the detention of the detenu and his place of detention. If that be so, the order of detention is vitiated. This petition must succeed and the same is ordered as prayed for. The detention order dated 4.5.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To:

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

2. The Commissioner of Police
   Greater Chennai, Egmore
   Chennai - 600 008.

3. The Superintendent, Central Prison,
   Puzhal, Chennai.

4. The Joint Secretary to Government,
   Public [Law and Order], Fort St. George,
   Chennai 9.

5. The Public Prosecutor
   High Court, Madras.

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